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PUBLIC SERVICE, THE HIGHEST IDEAL OF THE BAR ¹

IT is estimated that there are about 130,000 lawyers in the United States. Except possibly in the State of Indiana,² every one of them must have passed some sort of an examination to meet certain mental and ethical requirements prescribed by law or rule of court. Not only this, but maintenance of the office of attorney or counsellor is dependent upon continued compliance with standards of conduct recognized by the Bar and the Courts. Revocation by the Court of the license to practise law, is a recognized means of enforcing compliance with these requirements. Here then is a democratic aristocracy unique in our institutions. It is a democracy, in that admission to its ranks is open to all who comply with the prescribed requirements. It is an aristocracy, in the true sense, being a body of selected citizens, qualified by learning and character to advise upon the laws of the land, and to represent before the duly established legal tribunals persons who are engaged in legal controversies.

There are two aspects in which the Bar must be considered; one, as a body of men qualified to advise and act for private

¹ This article includes the substance of some remarks made to Harvard Law School students under the auspices of the Law School Society of Phillips Brooks House by Mr. Wickersham in December, 1921. — Ed.

² CONST. INDIANA, § 181. "Every person of good moral character being a voter, shall be entitled to admission to practice law in all courts of justice." But see requirements of Statute (1908, BURNS ANN. STAT. § 997) requiring examination "touching his learning in the law."

clients in regard to their legal affairs. The other, as a body of especially qualified citizens, more or less learned in the laws of the land, trained in logical processes of thought, familiar with the Constitution and government of the country and peculiarly competent in various ways to assist in the political conduct of the community.

Two broad considerations, therefore, confront every student of the law. First, there is the predominant need of acquiring such a knowledge of the law as will enable him to meet the tests prescribed as conditions to entering upon the vocation of attorney or counsellor; the knowledge and skill which will enable him to earn a living by advising clients and properly attending to their legal affairs. To a large percentage of students, whatever else may be thought of, this is the prime essential. Probably a great majority of men who study law select that vocation as one of a number of available means of livelihood; a congenial occupation. If that were all, practising law would differ only in degree, not in kind, from any other vocation — that of a plumber or an apothecary, for example. But it is not all. The practice of the law is a learned profession, requiring for its mastery great and prolonged labor, intense study and concentration. It involves the study of history — the history of civilization, especially of those civilizations in which our laws have their roots. It involves philosophy; for in the successful application of law to the activities of men, there is implied a knowledge of the operations of the human mind, of the natural conduct of men in association, of the meaning and effects of civilization. It involves the profound and continued study of man. The law is not a fixed body of dogmatic rules. It is as varying as the changing requirements of a progressive civilization. Certain principles it is true have been established by human experience, which may be accepted as fixed stars in the firmament of man's existence. But the constellations are ever changing, and the lawyer who would remain of use in his profession must be alive to these mutations, or his observations will fail the need of his client in his greatest stress.

Above all things, the practice of the law requires character. For in the adjustment of relations between men, or between man and the state, the character of the adviser or the repre-

sentatives of the one or the other, often will determine the issue, when the mere application of prescribed dogma would fail. The simplest illustration of this is furnished by the conscientious adviser whose influence settles a controversy which, though he might win it in the end, would cost his client much money, worried days and nights, perhaps the loss of friendships or associations which enrich his life, merely to gratify vanity or a revengeful spirit. To fall in with the client's mood would be profitable. It might afford opportunities for great professional distinction. But if his character be what that of an upright counsel should be, the lawyer never will be influenced in his conduct or advice by the thought of personal gain or glory.

Giving to the preparation for his work as a practitioner the foremost place, recognizing the force it must exert in the early period of his practice, there is another and a higher consideration which must have a place in the thoughts of every young lawyer.

That consideration is the duty which every lawyer owes to the community of which he is a part. The mere fact that he has studied systematically the Constitution and laws of his country and that he therefore understands better than another the bearing of proposed measures of government upon the common weal, imposes upon him a duty to take his part in public affairs and to help make clear to his fellow countrymen the difference between sound and unsound measures of action. Education for leadership in the community is an essential part of the preparation of every lawyer.

It is not necessary that he should seek office. A young lawyer, dependent upon his profession for his livelihood, seldom can afford to accept public office. But there are many other things he can do. He can take part in the ordinary activities of the political party to which he belongs. He can attend meetings of the local political committees or conventions. He can participate in the public discussions preceding elections. He can keep himself informed concerning questions which from time to time arise for public debate, such as pending legislative measures, as well as regarding the relative merits of candidates for office. There are many prejudiced and many venal counsellors of the public. Not infrequently newspaper advice, counsel or criticism, is influenced by considerations very different from securing the

best thing for the public welfare. A clear-headed lawyer who has taken pains to understand a question, often may give the public advice so clear, so convincing and obviously so disinterested, that it will prevail over any amount of prejudiced newspaper or other advocacy.

There are many other ways in which the lawyers of the country may render public service. Too often, during the last quarter of a century, have lawyers been identified with the successful exploitation of private interests as against the common weal. The pursuit of gain, rather than the maintenance of the best professional standards has seemed in many instances to be the guiding principle of those who have attained the highest successes at the bar. But there is a certain amount of misconception and exaggeration at the bottom of this criticism. For the fundamental principle of professional service must be loyalty to the client and his cause. Very seldom does it happen that a lawyer called into the public service permits his conduct to be influenced by the views or interests of his former clients. On the contrary, he identifies himself with the interests of his new client, the public, with the same loyalty and ardor which made him successful as the representative of private corporate interests. It is in so far as the lawyer employs his talents and his trained intelligence for the public welfare, that he justifies his vocation and enhances the honor and dignity of the legal profession.

The possession of wealth or learning or ability carries with it the obligation to use the one or the other in the public interest.

Willingness to accept public responsibilities and to unite with others in common thought, common will and common action for the welfare of the community, are pointed out by Emil Faguët as the characteristics of true aristocracy!³ It is the public service of the Bar by which it justifies its high position in the American Commonwealth. It is the perpetuation of this ideal of unselfish public service to which the student of law and the young practitioner must look, as the pathway to that kind of success which should inspire his best efforts.

George W. Wickersham.

NEW YORK CITY.

³ ET L'HORREUR DES RESPONSABILITÉS, 20.